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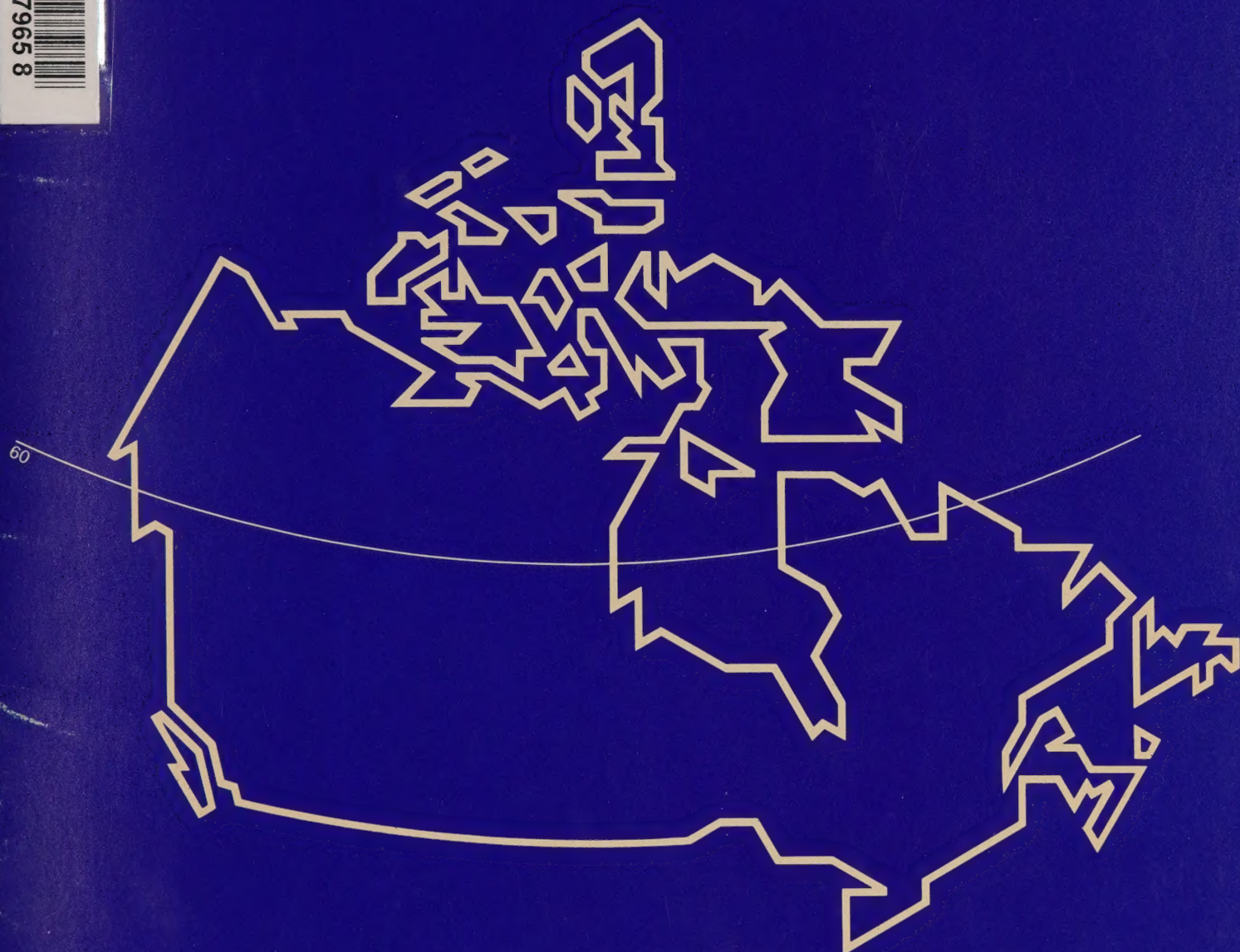
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# United States Indian Tribal Courts: A Bibliography

Social Science Notes — 6

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# United States Indian Tribal Courts: A Bibliography

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Social Science Notes — 6

By Susan Karamessines

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## Foreword

The major thrust of the division's recent socio-legal research on Inuit (Eskimos) and the administration of criminal justice has been an evaluation of their adaptation to Canadian law-ways and formalized agencies of social control. However, one of the findings of this and other research, confirmed at the recent Edmonton Conference on Native Peoples and The Criminal Justice System, has been an expression of doubts by aboriginal peoples as to whether these existing structures, including the judiciary, can effectively deter or deal with the anti-social behaviour of native offenders or ensure the adequate protection of possible victims or members of the community.

In response to this issue, the division engaged Susan Karamessines to prepare a bibliography on the American Indian Tribal Court System for distribution to native peoples and others in their consideration of alternative models to adjudication.

H.W. Finkler,  
Northern Research Division



## Author's Note

The subject of United States Indian tribal courts is a broad one, encompassing the traditional Indian law-ways which are (increasingly) reflected in the modern tribal court system; the history of the development of the courts from the 19th century courts of Indian offenses and the U.S. government's various Indian policies and laws; and the recent and current development of the courts themselves, and of the delineation and clarification of their powers and jurisdiction.

This bibliography, completed in less than four months and plagued during the first two by the Canadian postal strike, is not an exhaustive work on the subject. It is general, in that it attempts to provide at least an introduction to all of the aspects of the subject mentioned above. Since these aspects overlap in many of the individual works, the bibliography is generally divided according to the material's sources, rather than by subject.

It should be noted that, as with most subjects related to native peoples, the most accessible material is not of native origin. An attempt was made, however, to discover as many of these works as possible within the limitations of time and budget. Some which are cited here are unpublished; and many important documents, especially recent tribal constitutions, law codes and individual laws, which are not successfully collected anywhere, do not appear here.

In this bibliography, important sources of Indian points of view are the works by associations such as the National American Indian Tribal Court Judges Association and others; and the testimony, by representatives of Indian tribes, courts and associations, before the various Congressional committees. In addition, much unpublished material is held by the Native American Rights Fund, National Indian Law Library (1506 Broadway, Boulder, Colorado, cited herein as NILL) and is available on request.

The Native American Rights Fund's Subject Index to Indian Legal Materials and Resources is used in the section on Articles in Legal Periodicals, with the express permission of that organization.\*

The many people who gave assistance, information and advice during the course of this work are too numerous to mention here individually. I gratefully acknowledge their help.

Susan Karamessines

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## WORKS BY INDIVIDUAL AUTHORS

## Historical, Reference and Legal Treatises

Angle, Jerry. Federal, state and tribal jurisdiction on Indian reservations in Arizona. Forward by William H. Kelly. Tucson, University of Arizona, 1959. (The University's Bureau of Ethnic Research, American Indian Series, no. 2).

Cheal, David D. "Jurisdiction of tribal courts over criminal offenses committed by non-Indians on Indian land." Paper presented to Indian Legal Problems Seminar, University of Washington School of Law (Prof. Ralph W. Johnson) March, 1973. 45p.

Sections on current existing authorities, the concept of sovereignty of Indian tribes, courts of Indian offenses, doctrinal bases for validating jurisdiction over non-Indians and the quest for a favourable precedent. avail. from NILL.

Debo, Angie. And still the waters run: the betrayal of the Five Civilized Tribes. Princeton, N.J., Princeton University Press, 1940. Reprint 1973.

An account of the liquidation of the Cherokee, Choctaw, Chickasaw, Creek and Seminole Nations of the Indian Territory. These tribes had developed written constitutions and laws, administered by their own tribal governments and courts. The latter were specifically abolished by the Curtis Act of 1898.

\_\_\_\_\_. The rise and fall of the Choctaw Republic. 2d ed. Norman, University of Oklahoma Press, 1961.

\_\_\_\_\_. The road to disappearance. Norman, University of Oklahoma Press, 1941.

The Creek Nation.



Deloria, Vine, comp. Of utmost good faith. San Francisco, Straight Arrow Books, 1971.

A documentary history.

Gubler, Brent H. A constitutional analysis of the criminal jurisdiction and procedural guarantees of the American Indian. Doctoral thesis, Syracuse University, 1963. 378 p.

Thoroughly covers constitutional language, the role of Congress, the various jurisdictional questions, and the constitutional status of Indians and tribal governments. The 3 provisions of the U.S. Constitution which refer directly to Indians do not provide a national authority to assert criminal jurisdiction over Indians and Indian territory. Thus the legal status of the Indians has its roots in international law and power politics, and not in the Constitution. Concludes, in part, that the constitutionality of the federal governments' assumed power to regulate Indians "...would seem to be doubtful". 344 (avail. from R & E Research Associates, 936 Industrial Avenue, Palo Alto, Calif. 94303. \$10.00).

Hagan, William, T. The Indian in American history. New York, Macmillan Co., 1963. rev. ed. 1971. (American Historical Association, Service for Teachers of History, pub. no. 50).

\_\_\_\_\_. Indian police and judges: experiments in acculturation and control. New Haven, Yale University Press, 1966.

The courts of Indian offenses, established and controlled by the federal government in the late 19th century, were the precursors of contemporary tribal courts. This is a thorough account of the imposition of these courts on the tribes, and of the first Indian police forces. The circumstances and motivation for the courts' establishment, and the role they played in altering the relationship between the U.S. government and the tribes, are described. Includes information on specific courts and judges, the latter's relationships with the Indian agents who appointed and eventually paid them, and tribal reactions and factionalism.



- \_\_\_\_\_. Indian policy after the Civil War: the reservation experience.  
In Indiana Historical Society Lectures 1970-71: American Indian Policy.  
 Indianapolis, Indiana State Historical Society, 1971.

The reservation system was designed to accomplish the 'civilization' of the tribes through a five-part formula: education, isolation, self-sufficiency, Christianity and a system of law. Examination of the practical results of each element reveals that only the establishment of a system of law was successful.

- \_\_\_\_\_. "Private property, the Indians' door to civilization."  
 Ethnohistory, v. 3, 1966: 126-137.

Johnson, Ralph W., ed. Studies in American Indian law. Seattle, University of Washington School of Law, 1970, 1971. 2v.

Especially "The Indian Bill of Rights" by Marilyn Sloan and "Jurisdiction over Indians and Indian Lands in Washington" by Nicholas C. Newman.

Josephy, Alvin M., Jr., Vine Deloria Jr., et al. [Testimony in] U.S. v. Consolidated Wounded Knee Cases, 389 Fed. Supp. 235, (D. Neb., S. SDD. 1975). Transcript. 1800 p.

Trial on jurisdictional question, held in Lincoln, Nebraska, 16 Dec. 1974 through 2 Jan. 1975. Defendants claim that federal and state governments have no jurisdiction to try them, since their tribe did not, in or since 1868 Sioux Treaty, relinquish criminal jurisdiction over their lands. Transcript contains wealth of testimony by noted experts including Alvin M. Josephy Jr., Sam Deloria, Vine Deloria Jr., anthropologists, tribal spiritual leaders, elders, medicine men, and descendants of signers of 1868 Treaty. avail. from NILL. \$50.00.

LaFountaine, Frank. "State judgment executions and Indian property." Paper presented to Indian Legal Problems Seminar, University of Washington School of Law, 1972. 67 p.

Moquin, Wayne, comp. Great documents in American Indian history. New York, Praeger, 1973.

Parker, Alan. "Delinquents and tribal courts in Montana." American Indian Culture Center Journal, v. 3, no. 2, 1972: 3-6.

Concerns judicial decision that tribal courts cannot transfer delinquent juveniles to the state for confinement in state training schools, because this is beyond the state courts' authority.

Price, Monroe E. Law and the American Indian: Readings, notes and cases. Indianapolis, Bobbs-Merrill Co. Inc. 1973. (Contemporary Legal Education Series). 841 p.

The first law school casebook in the field of Indian law. Sections dealing with tribal law and its sources, tribal courts and current problems, p. 126-162.

\_\_\_\_\_. Native American law manual. Los Angeles, California Indian Legal Services, 1970.

This is "...particularly a document to assist VISTA lawyers and other VISTA workers on reservations, but it is also intended to be used as a general guide by anyone interested in the special situation of American Indians..." preface. Chapter 5 (strengthening tribal governments) includes sections on the right to counsel; limitations on tribal power - the Civil Rights Act of 1968 (including jurisdiction over non-Indians); law-making; institutional methods for strengthening the tribe; and counsel and the tribe.

Priest, Loring Benson. Uncle Sams' stepchildren: the reformation of United States Indian policy, 1865-1887. New York, Octagon Books, 1942. 1969.

This is the period during which the courts of Indian offenses were established.

Prucha, Francis Paul, ed. Documents of United States Indian policy. Lincoln, University of Nebraska, 1975. 278 p.

Excerpts a number of documents related to the establishment of the courts of Indian offenses, including opinions of government and military officials and reformist associations on the need to extend U.S. law to Indians; the 1883 annual report of Secretary of the Interior Teller, setting out his assimilationist reasons for finally authorizing the courts; the 1892 Rules for Indian Courts; and the Curtis Act. Also includes judicial decisions and legislation relevant to the sovereignty and jurisdiction of modern tribal courts.



Riehl, Alice. "Tribal courts". In American Indian Lawyer Training Program. A manual of Indian law for the Indian law seminar and intern Project, June 16-25, 1975. 31 p.

Includes sections on the authority, form and jurisdiction of the courts; implications of the 1968 Indian Civil Rights Act (attorneys in tribal courts, jury trials, the Model Code); relationships with neighboring jurisdictions (full faith and credit, extradition and cross-deputization); and problems facing the judiciary (court personnel, qualifications and training, facilities, separation of powers and court records).

Schusky, Ernest Lester. "American Indians and the 1968 Civil Rights Act." America Indigena, v. 29, 1969: 3.

Stephens, Harry R. The government of the Indians of South Dakota. University of South Dakota Governmental Research Bureau, 1972. 58 p.

Taylor, Theodore W. The states and their Indian citizens. Washington, D.C., U.S. Govt. Print. Off., 1973.

Good source of historical and current information on the legal relationships between individual state governments and the tribes within their borders.

Tyler, S. Lyman. A history of Indian policy. Washington, D.C., U.S. Govt. Print. Off., 1974.

Vogel, Virgil J. This country was ours: a documentary history of the American Indian. New York, Harper & Row, 1972. 1974. 473 p.

Excerpts a great variety of accounts, statements, treaties, legislation and judicial decisions, to name a few; from "An early description of Aztec life" to "The occupation of Alcatraz, 1969." Many are of Indian origin. Includes an extensive bibliography.

Wardell, Morris L. A political history of the Cherokee Nation, 1838-1907.  
Norman, University of Oklahoma Press, 1938.

Washburn, Wilcomb E. The American Indian and the United States: a  
documentary history. New York, Random House, 1973. 4 vs.

Five categories of documents: reports of the commissioners of  
Indian affairs, congressional debates on Indian affairs, laws and  
ordinances, treaties, and judicial decisions. An extensive and  
useful collection.

\_\_\_\_\_. Redman's land - white man's law: a study of the  
past and present status of the American Indian. New York,  
Charles Scribner's Sons, 1971. 280 p.

Especially "Indian courts" (168-173) and "Constitutional rights"  
(173-193), for brief history and succinct account of current  
situation and problems of tribal courts.

#### Traditional Law-ways

Allen, Eugene Vaughn. Development of law and legal institutions among  
the Creek Indians. Masters' thesis, Oklahoma A & M, 1939. 79 p.

Ballenger, Thomas Lee. The development of law and legal institutions  
among the Cherokees. Doctoral thesis, Oklahoma, 1938. 218 p.

Bernard, Jessie. "Political leadership among North American Indians."  
American Journal of Sociology, v. 34, 1928: 296-315.

Studies the personalities and leadership techniques of chiefs.  
Largely based on early accounts.



Birket-Smith, Kaj. Primitive man and his ways; patterns of life in some native societies. trans. from the Danish by Roy Ruffell. 1st American ed. Cleveland, World Publishing Co., 1960, 1961.

Brown, Paula. "Changes in Ojibwa social control." American Anthropologist, v. 54, 1952: 57-70.

Colton, H.S. "A brief survey of Hopi common law." Museum Notes (later Plateau), v. 7, 1934: 21-24.

Herman, M. "The social aspect of Huron property." American Anthropologist, v. 58, 1956: 1044-1058.

Hill, W.W. "Notes on Pima law and tenure." American Anthropologist, v. 38, 1936: 586-589.

Concerns headman's role in assigning and mediating land and water rights.

Hippler, A. Traditional Athabascan law-ways and their relationship to contemporary problems of "bush justice"; some preliminary observations on structure and function. Fairbanks, University of Alaska Institute of Social, Economic and Government Research, 1972. 19 p.

Hoebel, E. Adamson. The Cheyennes: Indians of the Great Plains. New York, Holt, Rinehart and Winston, 1960. (Stanford University, Case studies in cultural anthropology).

\_\_\_\_\_. The law of primitive man: a study in comparative legal dynamics. Cambridge, Harvard University Press, 1954. 1967. reprint. New York, Atheneum, 1970.

Especially chapter 7: "Comanche, Kiowa and Cheyenne: Plains Indian law in development." 127-176. Includes good bibliography.

\_\_\_\_\_. "The political organization and law-ways of the Comanche Indians." *American Anthropologist*, v. 42, no. 3, part 2, 1940: supplement. (*American Anthropological Association Memoirs*, no. 54, 1940).

Appendices include "Comparative notes on Shoshonean law-ways.

Kluckhohn, Clyde. *Navaho witchcraft*. Cambridge, Peabody Museum of Harvard University, 1944.

Analyzes structure and function of witchcraft cases, viewed here as affirmations of tribal solidarity which expose and define what is bad, ... "namely, all secret and malevolent activities against the health, property and lives of fellow tribesmen." 110.

Kroeber, A.L. Yurok law. In *Proceedings of the 22d International Congress of Americanists*. Rome, 1926. p. 511-516.

Summarizes principles of Yurok law, from previous account in *Indians of California* (Bureau of American Ethnology, Bulletin 78, 1925) with addition of new data.

Levy, Jerrold E., et. al. "Navajo criminal homicide." *Southwestern Journal of Anthropology*, v. 25, 1969: 124-152.

Llewellyn, K.N. and E. Adamson Hoebel. *The Cheyenne way, conflict and case law in primitive jurisprudence*. Norman, University of Oklahoma Press, 1941. 1961.

From field work in Montana, 1935-36, collecting data from 1820-1880. Contains: 1. the study of primitive law. 2. Cheyenne law-ways. 3. The law-jobs and juristic method. Includes many cases.

Lowie, Robert H. "Property rights and coercive powers of plains Indian military societies." *Journal of Legal and Political Sociology*, v. 1, 1943: 59-71.

Based on field work and early travelers' accounts.



\_\_\_\_\_. Some aspects of political organization among the American aborigines. Huxley Memorial Lecture for 1948. London, Royal Anthropological Institute of Great Britain and Ireland, 1948.

MacLachlan, Bruce B. "On 'Indian justice'." Plains Anthropologist, v. 8, no. 22, 1963: 256-261.

Describes in detail 1908 case of Mescalero Apache posse tracking and killing the Mescalero murderer of a white man. Asserts this to have been preventive measure against inter-community feud.

Morgan, Lewis H. Government and institutions of the Iroquois. Rochester, Lewis H. Morgan Chapter, New York State Archaeological Association, 1928.

Nader, Laura, ed. The ethnography of law. Symposium with forward by Laura Nader. American Anthropologist, v. 67, no. 6, part 2, 1965.

\_\_\_\_\_, ed. Law in culture and society. Chicago Aldine Publishing Co., 1969. 1972.

Especially, "Keresan pueblo law" by E. Adamson Hoebel, which deals mostly with Pueblos of Sia and Santa Ana. p. 92-116. Book includes good bibliography.

Newell, William B. Crime and justice among the Iroquois Nations. Montreal, Caughawaga Historical Society, 1965.

Noon, John A. Law and government of the Grand River Iroquois. New York, Viking Fund Publications in Anthropology no. 12, 1949. reprint. New York, Johnson Reprint Corp., 1964.

Based on field work and the recorded minutes of the Confederate Council from 1860 to 1921, which revealed that ... "with only slight alternatives in procedure the chiefs had succeeded in adopting the traditional counseling procedures of the Confederacy to serve judicial purposes." 5. Cases presented are those decided by Grand Council, but it is noted that many cases resolved "... by action taken by family, clan and tribal bodies." 116.

Palmer, William R. "Paiute Indian government and laws." Utah Historical Quarterly, v. 2, no. 2, 1929: 35-42.

Payne, J.H. Indian justice: a Cherokee murder trial at Tahlequah in 1840. ed. by Grant Foreman. Oklahoma City, Harlow Publishing Co., 1934. reprint. Muskogee, Oklahoma, Star Printery, 1962.

Pibling, Arnold R. "Statistics, sorcery, and justice." American Anthropologist, v. 64, 1962: 1057-1059.

Critique of Paiute Sorcery, by B.B. Whiting, 1950. "Sorcery became more important only after an external system of superordinate punishment had been imposed on the pre-European system of justice." 1058.

Powers, Mabel. The Indian as Peacemaker. New York, Fleming H. Revell Co., 1932.

Provinse, John H. "The underlying sanctions of Plains Indian culture." In Social Anthropology of North American Tribes, ed. by F. Eggan. Chicago, University Press, 1937.

From published data on Assiniboine, Blackfoot, Crow, Dakota and Omaha tribes. Emphasizes role of military societies.

\_\_\_\_\_. The underlying sanctions of plains Indian culture: an approach to the study of primitive law. Doctoral thesis, University of Chicago, Dec. 1934. 197 p.

Attempts to classify regulatory behavior or social control into types of sanctions.

Reid, John Phillip. A law of blood: the primitive law of the Cherokee Nation. New York, University Press, 1970.



Richardson, Jane. Law and status among the Kiowa Indians. New York, J.J. Augustin, 1940. (Monographs of the American Ethnological Society, 1). reprint. Seattle, University of Washington Press, 1966.

Includes chapters on criminal cases, quarrels between husband and wife, kin, levirate cases, absconding and status as a legal principle and property quarrels. 92 cases analyzed, most prior to 1880.

Schiffer, Michael Brian. "Cultural laws and the reconstruction of past lifeways." *The Kiva*, v. 37, no. 3, 1972: 148-157.

Smith, Watson and John M. Roberts. Zuni law: a field of values. Cambridge, Mass., Peabody Museum Papers, v. 43, no. 1, 1954.

Examines Zuni values through analyses of 97 cases dealt with by Tribal Council or Bow Priests, 1880-1952.

Strickland, Remnard. "Christian Gotelieb Prider: utopian precursor of Cherokee government." *Chronicles of Oklahoma*, v. 48, 1970: 264-279.

An early 18th century influence on the development of Cherokee government.

\_\_\_\_\_. Fire and the spirits: Cherokee law from clan to court. Norman, University of Oklahoma Press, 1975.

Tibbles, Thomas Henry. The Ponca Chiefs: an account of the trial of Standing Bear. Nebraska, University Press, 1972. 143 p.

Van Valkenburg, Richard. "Navajo common law: (I) notes on political organization, property, and inheritance." *Museum Notes (later Plateau)*, v. 9, 1936: 17-22.

Pre-1863 exile Tribal Assembly and post-1922 Tribal Council.

\_\_\_\_\_. "Navajo common law: (II) Navajo law and justice."  
Museum Notes, v. 9, 1937: 51-54.

Mostly pre-1900. Breeches of traditional laws, ostracism and the role of clan vengeance.

\_\_\_\_\_. "Navajo common law: (III) etiquette - hospitality - justice." Museum Notes, v. 10, 1938: 37-45.

Pre-1863, 1870, 1920 and post-1938. Navajo response to establishment of courts of Indian offenses, administering federal code of regulations. Includes table on "Attitudes of Navajos and Indian courts on delinquency."

Whiting, Beatrice Blyth. Paiute sorcery. New York, Viking Fund Publications in Anthropology, no. 15, 1950.

Sorcery as a means of social control. Hypothesizes that sorcery more prevalent in societies with no centralized political system.

#### Contemporary Law-ways

Aberle, Sophie Bledsoe. The Pueblo Indians of New Mexico: their land, economy and civil organization. Menaska, Wisconsin. American Anthropological Association, 1948.

Dean, Bobo. Law and Order on the Mississippi Choctaw Reservation. Washington, D.C., Association on American Indian Affairs, Inc., 1970. 174 p.

Report of a 1969 study of Mississippi Choctaw law enforcement problems, the concepts and data used by the tribal council in its criminal justice system, and the development of a code of criminal procedures accommodating local needs and tribal customs. Contains an analysis of the tribes' current problems in this area, recommendations for action, and a proposed code of laws.

Farber, William O., Philip A. Odeen and Robert A. Tschetter. Indians, law enforcement and local government: a study of the impact of the off-reservation Indian problem on South Dakota local government, with special reference to law enforcement. Vermillion, University of South Dakota Governmental Research Bureau (Report no. 37). 1957.

Grinnell, Ira H. The tribal government of the Oglala Sioux of Pine Ridge, South Dakota. Masters' thesis, University of South Dakota, 1959. Vermillion, the University's Government Research Bureau (special project no. 22) 1967.

Haas, Theodore H. Ten years of tribal government under I.R.A. Chicago, U.S. Indian Service, 1947.

After a brief report on the general success of the Indian Reorganization Act, this document tables the results of Indian voting (by community) on acceptance or rejection of the terms of the Act; the communities under constitutions or charters under the Act; the communities which accepted the Act but maintain prior constitutions; and the communities not under the Act which operate under constitutions. Latter sections comprised of the Act itself, amendments thereto, the Alaska Reorganization Act of 1936 and the Oklahoma Indian Welfare Act of 1936.

Kluckhohn, Clyde, and Dorothea Leighton. The Navajo. Garden City, New York, Doubleday - Anchor, 1960

Describes modern Navajo justice system.

Luebben Ralph A. "Anglo law and Navajo behavior." The Kiva, v. 29, 1964: 60-75.

MacLachlan, Bruce B. "The Mescalero Apache quest for law and order." Journal of the West, v. 3, no. 4, 1964: 441-458.

Describes establishment of a tribal court in 1936.

\_\_\_\_\_. The Mescalero Apache Tribal Court: a study of the manifestation of the adjudicative function in a concrete judicial institution. Doctoral thesis, University of Chicago, 1962.

Nagata, Shuichi. Modern transformations of Moenkopi Pueblo. Urbana, University of Illinois Press, 1970.



Shepardson, Mary. Navajo ways in government: a study in political process. Menasha, Wisconsin, American Anthropological Association, 1963.

\_\_\_\_\_. "Problems of the Navajo Tribal Courts in transition."  
Human Organization, v. 24, fall 1965: 250-253.

Vicenti, Dan, Leonard B. Jimson, Stephen Conn and M.J.L. Kellogg. The law of the people: a bicultural approach to legal education for Navajo students. Ramah Navajo High School, 1972. 4v.

v. 1: law for consumers; v. 2: the development of a Navajo legal system; v. 3: law and the family; v. 4: law and community life. (avail. from Ramah Navajo High School Press, P.O. Box 248, Ramah, New Mexico 87321).

Vogt, Evon Zartmann. People of Rimrock: a study of values in five cultures. ed. by E.Z. Vogt and Ethel M. Albert. Cambridge, Harvard University Press, 1966.

Walker, Deward E., Jr. Conflict and schism in Nez Percé acculturation: a study of religion and politics. Pullman, Washington State University Press, 1968.

### Articles from Legal Periodicals

The numbered annotations in this section are the subjects under which the Native American Rights Funds' National Indian Law Library classifies the material.

Abourezk, James G. "South Dakota Indian jurisdiction." South Dakota Law Review, v. 11, 1966: 101.

1. Indian country: jurisdiction, generally.

"The American Indian - tribal sovereignty and civil rights." Iowa Law Review, v. 51, 1966: 654.

1. tribal sovereignty and powers: basis for
2. civil rights.

Anderson, R.B. "A preliminary checklist of the laws of the Indian tribes." Law Library Journal, v. 34, 1941: 126.

1. tribal law
2. customs, traditions and culture: aboriginal law.

Baldassin and McDermott. "Jurisdiction over non-Indians: an opinion of the opinion." American Indian Law Review, v. 1, 1973: 13.

Barnes, Richard L. "Constitutional law: applicability of constitutional limitations to Indian tribal government [Native American Church of North America v. Navajo Tribal Council, 272 F. 2d, 131]." Oklahoma Law Review, v. 16, 1963: 94.

1. customs, traditions and culture: religion
2. tribal sovereignty and powers: basis for
3. civil rights: tribal action.

Bean, Jerry L. "The limits of Indian tribal sovereignty: the cornucopia of inherent powers." North Dakota Law Review, v. 49, no. 2, 1973: 303-331.

The powers of Indian tribal governments are constantly redefined by conflict with state governments, and more recently by the 1968 Indian Civil Rights Act. "This appraisal...has emphasized recent cases which contain a faint promise of expansion of the scope of tribal sovereignty...But until the effect of the 1968 Civil Rights Act is registered, the limits of tribal sovereignty are incapable of more precise measurement." 331.

1. tribal sovereignty and powers: basis of
2. tribal courts.

Benge, William B. "Law and order on Indian reservations." Federal Bar Journal, v. 20, no. 3, 1960: 223.

1. Indian country: jurisdiction, generally
2. tribal courts.

Birdzell, Douglas. "Criminal law - Indians - statutory rape not a basis for jurisdiction under Ten Major Crimes Act [U.S. v. Jacobs, 113 Fed. Supp. 203]." North Dakota Law Review, v. 30, 1954: 54.

1. criminal jurisdiction: Ten Major Crimes Act.

Birkett, Peter W. "Indian tribal courts and procedural due process: a different standard?" Indiana Law Journal, v. 49, 1974: 721-739.

Tribal courts, as instrumentalities of the federal government, should fulfill procedural requirements for fair trial based on U.S. constitution. But specific procedural deviations could be allowed when not plainly in conflict with the 1968 Indian Civil Rights Act, and if tribe can show that constitutionally prescribed balance between individual and society is not thereby affected.

Bohlman, Bruce E. "Indians - crimes by Indians out of Indian country or reservation - jurisdiction of state to arrest Indian on the reservation." North Dakota Law Review, v. , 1969.

1. criminal jurisdiction: Indian country.



Brown, Ray A. "The Indian problem and the law". Yale Law Journal, v. 39, 1930: 307.

1. criminal jurisdiction: Indian country
2. courts of Indian offenses
3. domestic relations
4. tribal property: lands
5. court of claims: special jurisdictional acts
6. allotments
7. administration of Indian affairs.

Burke, Joseph C. "The Cherokee cases: a study in law, politics and morality." Stanford Law Review, v. 21, 1969: 500.

1. administration of Indian affairs
2. Indian country: jurisdiction, generally.

Burnett, Donald L. Jr. "An historical analysis of the 1968 'Indian Civil Rights' Act." Harvard Journal on Legislation, v. 9, 1971-72: 557-626.

Critically examines the issues, and the actions and intent of agencies and persons involved in the evolution of this law. Concludes that judges who use it ... "to demand more of the tribes than required by the letter and history of the Act might become a contemporary analogue to the BIA agent of an earlier period, who imposed tenets of personal conviction through the power of the white conqueror." 622.

Canby, William C. Jr. "Civil jurisdiction and the Indian reservation." Utah Law Review, v. 1973, no. 6: 206-232.

Concludes that "The tribal courts are an essential part of the machinery of Indian self-government; and the Supreme Court, as evidenced by Williams v. Lee, has espoused the policy of protecting tribal jurisdiction from state interference. If the tribes assert specific jurisdiction to adjudicate all reservation-connected matters, continued application of Williams v. Lee would protect that exercise of power from state intrusion. Jurisdictional decisions would become dependent upon the interconnection between the subject matter of the case and reservation affairs, rather than upon the Indian non-Indian identity of the suing party. Finally, tribes and their courts would be afforded the opportunity to develop an integrated legal policy along lines that they deem suited to the reservation setting. They deserve that opportunity". 232.

Carr, Allen Lane and M. Johanson. "Extent of Washington criminal jurisdiction over Indians." Washington Law Review, v. 33, 1958: 289.

1. criminal jurisdiction: Indian country.

Christoffel, Gregory J. "Indian tribal courts - jurisdiction - Navajo Tribal Court jurisdiction over non-Indian defendants. Navajo Tribe v. Orlando Helicopter Airways, Inc., Navajo Ct. App. (Jan. 12, 1972)." St. Louis University Law Journal, v. 18, 1974: 461-473.

Considers this jurisdictional controversy in general and analyses one decision. Concludes that "A rational attempt of an Indian court to exercise self-government by proceeding against non-Indians who break tribal laws should be treated with respect and thoughtful consideration." 473.

"The Civil Rights Act of 1964." Harvard Law Review, v. 78, 1964-65: 684-696.

Clayton, William F. "Indian jurisdiction and related double jeopardy questions." South Dakota Law Review, v. 17, 1972: 341.

1. criminal jurisdiction: Indian country
2. due process.

Clinger, W.F. "The constitutional rights of the American tribal Indian." Virginia Law Review, v. 51, 1965: 121-142.

1. tribal courts
2. tribal sovereignty and powers
3. Indian civil rights act.

Clute, James W. "The New York Indians' right to self-determination." Buffalo Law Review, v. 22, 1972: 985.

1. tribal government: self government, policy of
2. Indian country: jurisdiction, generally
3. tribal sovereignty and powers: basis for
4. tribal law

Cohen, Felix "Indian rights and the federal courts." Minnesota Law Review, v. 24, 1940: 145-199.

1. tribal government: self-government, policy of
2. tribal sovereignty and powers: basis for
3. criminal jurisdiction: Indian country
4. courts of Indian offenses
5. civil jurisdiction: Indian country
6. constitution, U.S.: as a source of federal authority over Indian affairs
7. tribal membership: qualifications
8. tribal membership: inheritance
9. taxation
10. tribal property

Cohen, Warren H. "Divorce filing fees in Indian tribal courts: a first look after Boddie v. Connecticut." Law and the Social Order, 1970: 541.

1. domestic relations: divorce
2. Indian civil rights act: due process
3. tribal courts

Cohen, Warren H. and Philip J. Mause. "The Indian: the forgotten American." Harvard Law Review, v. 81, 1968: 88.

1. administration of Indian affairs
2. tribal sovereignty and powers: basis for
3. tribal government
4. tribal courts

"Colliflower v. Garland, 342 F. 2d 369." Montana Law Review, v. 26, 1965: 235.

A U.S. Court of Appeals held in this case that a federal court had jurisdiction to issue a writ of habeas corpus to determine the validity of the detention of an Indian committed by a tribal court, on the basis that tribal courts are in effect a part of the federal system.



Comroe, James, comp. "Indian tribal courts." NLADA Briefcase, v. 30, no. 2, May, 1972: 179-180.

"Conflict of laws, legitimation, effect of Indian tribal law [Green v. Wilson (Okla.) 240 P. 1051]." Harvard Law Review, v. 39, 1926: 895-6.

1. probate: descent and distribution
2. sovereignty: conflict of laws.

"Constitutional law - equal protection of the laws - federal statute imposing less severe penalty upon American Indian who rapes an Indian woman than upon other rapists is constitutional - Gray v. United States, 394 F. 2d 96 (9th Cir., 1968)." Harvard Law Review, v. 82, 1969: 697.

1. civil rights: equal protection
2. criminal jurisdiction; Ten Major Crimes Act.

Coulter, Robert T. "Federal law and Indian tribal law: the right to civil counsel and the 1968 Indian Bill of Rights." Columbia Survey of Human Rights Law, v. 3, January 1971: 49-93.

Surveys federal and tribal Indian law, describes the Oglalla Sioux Tribal Court of the Pine Ridge Reservation, the problems surrounding the appearance of professional attorneys in tribal courts, and the questions of whether the due process clause in the Indian Bill of Rights does and should include the right to counsel in civil cases. Concludes that "Allowing professional counsel would be inappropriate to Indian courts, cause confusion, discrimination and inequality before the law, be difficult or impossible to put into effect, and perhaps even enable economic exploitation of the tribe." 92. The Act as a whole is an exploitable threat to Indian sovereignty and should either be repealed or made optional for each tribe.

Crosse, Murray L. "Criminal and civil jurisdiction in Indian country." Arizona Law Review, v. 4, 1962: 57-61.

1. tribal sovereignty and powers: basis for

Crow, John Charles. "Indians - civil actions - jurisdiction of state courts [Williams v. Lee, 79 Sup. Ct. 269]." Missouri Law Review, v. 24, 1959: 502.

1. civil jurisdiction: Indian country

Davis, Laurence. "Court reform in the Navajo Nation." Journal of the American Judicature Society, v. 43, 1959: 52-54.

Briefly describes the evolution and structure of the Navajo court system, which was established in 1959.

1. tribal courts: jurisdiction

\_\_\_\_\_. "Criminal jurisdiction over Indian country in Arizona." Arizona Law Review, v. 1, 1959: 62.

This article disputes the view that non-Indians on reservations are not within the jurisdiction of tribal courts.

1. criminal jurisdiction: Indian country.

"Davis v. Littell, 389 F. 2d 83." Catholic University Law Review, v. 18, 1968: 248.

Privilege of a non-Indian legal council to tribe to make defamatory statements within the scope of his official duties.

Dowling, Thomas F. "Criminal jurisdiction over Indians and post-conviction remedies." Montana Law Review, v. 22, 1961: 165.

1. criminal jurisdiction: Ten Major Crimes Act
2. criminal jurisdiction: consent to application of state laws; PL 280
3. Indian: defined
4. Indian country: defined
5. courts of Indian offenses

Dumars, Charles T. "Indictment under the Major Crimes Act - an exercise in unfairness and unconstitutionality." Arizona Law Review, v. 10, 1968: 691-705.

1. civil rights: equal protection
2. criminal jurisdiction: Indian country
3. criminal jurisdiction: Ten Major Crimes Act

Ericson, Robert and D. Rebecca Snow. "The Indian battle for self-determination." *California Law Review*, v. 58, March 1970: 445-490.

Describes the sources of federal power over Indians, the historic development of Indian legislation and the judicial response. Cases illustrate the current state of a developing Indian self-determination, questions yet unanswered and problems posed, especially by the 1968 Indian Civil Rights Act.

"The extension of county jurisdiction over Indian reservations in California: Public Law 280 and the Ninth Circuit." *Hastings Law Journal*, v. 25, 1974: 1451-1506.

Faulhaber, Dwight L. "The power of states to impose income tax on reservation Indians." *Williamette Law Journal*, v. 6, 1970: 515.

1. taxation: income, state
2. tribal government: self-government, policy of
3. Public Law 280.

"Federal courts - jurisdiction: In general - Federal courts lack jurisdiction over suits brought by non-Indian against tribal Indian - *Littell v. Nakai*, 344 F. 2d 486 (9th Cir., 1965), cert. denied, 34 USL Week 3245 (U.S. Jan 17, 1966)." *Harvard Law Review*, v. 79, 1966: 851.

1. jurisdiction, federal court: federal question generally
2. attorneys
3. sovereignty: sovereign immunity; tribal.

Fretz, Burton D. "The Bill of Rights and American Indian tribal governments." *Natural Resources Journal*, v. 6, 1966: 581-616.

Examines the desirability of applying U.S. Bill of Rights to tribal governments and courts. Recommends instead "a judicial analysis of each situation on an ad hoc basis." 590. The section on "due process and the Indians" (600-613) contains information on various tribal court and government practices.

1. tribal sovereignty and powers: basis for
2. civil rights: equal protection
3. tribal courts: due process
4. due process.



Getches, David. "Difficult beginnings for Indian legal services." NLADA Briefcase, v. 30, 1972: 181.

1. attorneys: legal services

\_\_\_\_\_. "Lawyers and Indians." The Colorado Lawyer, Feb. 1972.

1. attorneys.

Gibson, Arrell M. "Constitutional experiences of the Five Civilized Tribes." American Indian Law Review, v. 2, no. 2, 1974: 17-45.

Describes the evolution of written constitutions and codes of law in each of the tribes, during the nineteenth century in Oklahoma. Ends with the destruction of their governments and courts during latter part of the century.

Goldberg, Carole E. "Public Law 280: the limits of state jurisdiction over reservation Indians." UCLA Law Review, v. 22, no. 3, 1975: 535-594.

The legislative history of PL 280; and the opposition it has encountered.

"Gray v. U.S., 394 F. 2d 96." Harvard Law Review, v. 82, 1968: 697.

Guthals, Joel E. "State civil power over reservation Indians - a re-examination." Montana Law Review, v. 35, no. 2, 1974: 340-347.

Reviews the legislative and judicial evolution of current extent of state civil jurisdiction over reservation Indians. Supreme Court decisions in and clarifying Kennerly v. District Court, and recent Montana decisions which reopen the question.

Hagan, H.H. "Tribal law of the American Indian." Case and Comment, v. 23, 1917: 735.

Henderson and Barsh. "Oyate KiN hoye Keyuga u pe, part I: the law schools and Indian tribes." Harvard Law School Bulletin v. 25, no. 10, April 1974.

Criticism of the Harvard law course for failing to prepare Indian students to practice law in a tribal setting.

Hopkins, L. "Pay-hay-o-kee justice." Law Notes, v. 49, 1945: 29-30.

1. customs, traditions and culture: aboriginal law.

"The Indian Bill of Rights." Southwestern University Law Review, v. 5, 1973: 139-164.

"The Indian Bill of Rights and the constitutional status of tribal governments." Harvard Law Review, v. 82, 1969: 1343-1391.

Briefly describes authority, structure and legal jurisdiction of tribal courts. The problem of constitutional immunity of tribal courts vs. the possibility of a strict interpretation of the Indian Bill of Rights, and possible adverse effects of this conflict on tribal autonomy. A theory of the statutes' interpretation.

1. tribal government.
2. Indian civil rights act.

"Indian tribes and civil rights [Toledo v. Pueblo de Jemez, 119 Fed. Supp. 429]." Stanford Law Review, v. 7, 1955: 285.

1. citizenship: Indians as citizens
2. civil rights: tribal action
3. tribal sovereignty and powers: basis for

"Indians - criminal procedure: habeas corpus as an enforcement procedure under the Indian Civil Rights Act of 1968. 25 U.S.C. 1302-1303." Washington Law Review, v. 46, 1971: 541.

1. Indian civil rights act: habeas corpus

"Indians - federal court has jurisdiction to issue Writ of Habeas Corpus on behalf of Indian convicted by tribal court - Colliflower v. Garland, 342 F. 2d 369 (9th Cir., 1965)." Harvard Law Review, v. 79, 1965: 436.

1. tribal courts: appeal and review
2. tribal courts: jurisdiction

"Indians - jurisdiction of state laws [Woodin v. Seeley, 252 N.Y.S. 818]." New York University Law Quarterly, v. 9, 1932: 498-499.

1. probate: state inheritance laws
2. civil jurisdiction: consent to application of state laws.

Kane, Albert E. "Jurisdiction over Indians and Indian reservations." Arizona Law Review, v. 6, 1965: 237-255.

1. Indian country: jurisdiction, generally

\_\_\_\_\_. "The Negro and the Indian: a comparison of their constitutional rights." Arizona Law Review, v. 7, 1966: 244.

1. civil rights: equal protection
2. due process

Kerr, James R. "Constitutional rights, tribal justice, and the American Indian." Journal of Public Law, v. 18, 1969: 311-338.

Contains sections dealing with tribal life, politics, law, justice, and courts, the relationship between the latter and the U.S. Bill of Rights and Indian civil rights act of 1968; and arguments for the preservation of tribal judicial systems. Also discusses Indian response to the 1968 act, and degrees of Indian acculturation, which it suggests cannot be forced.

1. administration of Indian affairs
2. tribal law
3. tribal courts
4. Indian civil rights act

Koons, Melvin E. Jr. and Hans C. Walker. "Jurisdiction over Indian country in North Dakota." North Dakota Law Review, v. 36, 1960: 51.

1. Indian country: jurisdiction, generally.

Kuswa, Wesley M. "Criminal law - jurisdiction - Indians [State v. Rufus (Wis.) 237 N.W. 67]." Marquette Law Review, v. 16, 1931: 57.

1. criminal jurisdiction: Indian country



LaFontaine, Frank S. "Criminal jurisdiction over non-trust lands within the limits of Indian reservations." *Willamette Law Journal*, v. 9, 1973: 288-310.

1. criminal jurisdiction: Indian country

Lawrence, William. "Tribal injustice: the Red Lake court of Indian offenses." *North Dakota Law Review*, v. 48, 1972: 639.

1. customs, traditions and culture: aboriginal law
2. courts of Indian offenses
3. Indian civil rights act

Lazarus, A. Jr. "Title II of the 1968 Civil Rights Act: an Indian Bill of Rights." *North Dakota Law Review*, v. 45, 1969: 337.

1. Indian civil rights act.

Lednicer, Oliver. "The Peacemaker Court in New York State." *New York University Intramural Law Review*, v. 14, 1959: 189.

Briefly outlines origin, structure and functions of the Seneca Indians' Peacemaker Courts, which from 1848 to 1950 had exclusive civil jurisdiction "over all matters 'between Indians' residing on reservations, and over all actions in contract or tort except those contracts originally entered into with a white man." 191. The tribal councils heard appeals, and themselves had criminal jurisdiction over offenses not enumerated in the Ten Major Crimes Act. The state assumed criminal and civil jurisdiction over Indians at the beginning of the termination era.

1. tribal courts: jurisdiction
2. civil jurisdiction: consent to application of state laws
3. tribal courts: appeal and review.

MacMeekin, Daniel H. "Red, white and Gray: equal protection and the American Indian [Gray v. U.S., 394 F. 2d 96]." *Stanford Law Review*, v. 21, 1969: 1236.

1. civil rights: equal protection
2. criminal jurisdiction: Ten Major Crimes Act

Malinowski, B. "A new instrument for the interpretation of law - especially the primitive." Yale Law Journal, v. 51, 1942: 1237-1254 and Lawyers Guild Review, v. 2, 1942: 1.

This is a review of The Cheyenne way: conflict and case law in primitive jurisprudence, by K.N. Llewellyn and E.A. Hoebel, 1941.

Michaels, Lee S. "Courts - state courts in New York may not inquire into propriety of Indian court decisions [Jimerson v. Halftown Estate, 255 NYS 2d 959]." Syracuse Law Review, v. 17, 1965: 87.

1. tribal courts: jurisdiction

Mudd, John O. "Jurisdiction and the Indian credit problem: considerations for a solution." Montana Law Review, v. 33, 1972: 307.

1. civil jurisdiction: civil actions arising in Indian country
2. tribal courts: jurisdiction

Mudd, Joseph E. "Indian juveniles and legislative delinquency in Montana." Montana Law Review, v. 33, 1972: 233.

This article uses six examples, from Montana, of individual reservations' current practices in dealing with juvenile offenders. Describes, for each of the six, the tribal law code sections pertaining to juveniles, the arrest procedure, preliminary and court stages, and the treatment, counseling and rehabilitative efforts or procedures. Also describes the problem of state refusal to allow Indian juveniles to be placed in state juvenile facilities, and concludes that state and federal governments are delinquent in helping to deal with the problem.

1. juveniles
2. criminal jurisdiction: Indian country
3. tribal law: tribal codes
4. tribal courts: due process

Mundt, K.E. "Indian autonomy and Indian legal problems." Kansas Law Review, v. 15, 1967: 505-11.

1. tribal sovereignty and powers: basis for
2. tribal courts: jurisdiction

Munro, James. "Indian jurisdiction [Smith v. Temple, 152 N.W. 2d 547 (S.D. 1967)]." South Dakota Law Review, v. 13, 1968: 460-463.

1. Indian country: jurisdiction, generally.

Nash, Douglas. "Tribal control of extradition from reservations." Natural Resources Journal, v. 10, 1970: 626.

1. extradition
2. tribal sovereignty and powers: basis for

Ogborn, Michael. "Constitutional implications of an Indian defendants' right to a lesser-included offense instruction." South Dakota Law Review, v. 16, 1971: 468.

1. criminal jurisdiction: Ten Major Crimes Act
2. criminal jurisdiction: Indian country
3. due process
4. civil rights: equal protection

Olguin, Francisco L. and Albert E. Utton. "The Indian rural poor: providing legal services in a cross-cultural setting." Kansas Law Review, v. 15, 1967: 487.

1. attorneys: legal services
2. customs, traditions and culture

Olson, Thomas W. "Indians - state jurisdiction over real estate developments on tribal lands." New Mexico Law Review, v. 2, 1972: 81.

1. civil jurisdiction: consent to application of state laws
2. criminal jurisdiction: consent to application of state laws

Opland, David V. "Marriage and divorce for the Devil's Lake Indian Reservation." North Dakota Law Review, v. 47, 1971: 317.

1. domestic relations



O'Toole, Francis J. and Thomas N. Tureen. "State power and the Passamaquoddy Tribe: a gross national hypocrisy?" Maine Law Review, v. 23, 1971: 1-40.

"Unlike the majority of Indian tribes in the United States, the Maine tribes have been subject to exclusive state, as opposed to federal, governmental power. In this article the authors question the premises upon which the power... is founded." author's abstract.

1. treaties with states
2. Trade and Intercourse Act
3. civil jurisdiction: consent to application of state laws: acts of Congress

Parker, Alan F. "State and tribal courts in Montana: the jurisdictional relationship." Montana Law Review, v. 33, no. 2, 1972: 277-290.

"Undefined areas in the jurisdictional relationship... include: criminal extradition practices, recognition of state court judgments by tribal courts (and vice versa), regulation of licensed attorneys appearing before tribal courts, civil judgment limitations in tribal courts, tribal court appellate procedures, rules for juvenile proceedings in tribal courts, and determinations of applicable law in civil tort and contract actions before tribal courts." 286 Suggests that the two court systems could adopt mutually agreed upon rules of comity, which could be ratified by each governments' legislative branch if desired. (Includes brief section describing the background, structure and practices of Montana tribal courts).

1. Indian country: jurisdiction, generally
2. tribal courts

Parker, Arthur C. "The civic and governmental ideals of the Iroquois Confederacy." Case and Comment, v. 23, 1917: 717-718.

1. customs, traditions and culture: aboriginal law

Pederson, Alden. "Decisions of Indian tribal court held reviewable through federal district court habeas corpus proceeding." Montana Law Review, v. 26, 1965: 240.

1. tribal law: status of vis-a-vis federal courts
2. tribal courts: appeal and review

Petterson, Jay. "Education, jurisdiction and inadequate facilities as causes of juvenile delinquency among Indians." North Dakota Law Review, v. 48, 1972: 661-694.

1. juveniles: child welfare
2. education
3. administration of Indian affairs
4. criminal jurisdiction: Indian country

Price, Monroe E. "The Civil Rights Act of 1968: an analysis for discussion." American Indian Law Newsletter, v. 1, no. 4, 1968, appendix.

\_\_\_\_\_. "Lawyers on the reservation; some implications for the legal profession." Law and the Social Order, 1969: 161-203.

1. attorneys: legal services

Pritchett, L. Bow Jr. "Problems of state jurisdiction over Indian reservations." De Paul Law Review, v. 13, 1963: 74.

1. Indian country: jurisdiction, generally

Ransom, Richard E. and William G. Gilstrap. "Indians - civil jurisdiction in New Mexico - state, federal and tribal courts." New Mexico Law Review, v. 1, 1971: 196.

1. Indian country: jurisdiction, generally
2. tribal courts: jurisdiction
3. civil jurisdiction: consent to application of state laws

Reiblich, G. Kenneth. "Indian rights under the Civil Rights Act of 1968." Arizona Law Review, v. 10, 1968: 617-648.

A detailed consideration of the Titles of the Act which apply to Indians (II-VII), concentrating on Title II (Rights of Indians). Discusses each paragraph of that section in relation to actual practices and circumstances of tribal courts. Finds: that non-Indian courts dealing with similar (petty) offenses frequently operate under less stringent restrictions than those imposed by this section on tribal courts; that many of the requirements are difficult to interpret in and inappropriate to a tribal Indian setting, incompatible with traditional Indian procedures, and unnecessary; and that the section will generally impose a difficult and unnecessary burden on tribal courts, and should be repealed. The other Titles (III-VII) "represent a sound approach to Indian policy for the future."

1. Indian civil rights act

Reid, John Phillip. "The Cherokee thought: an apparatus of primitive law." New York University Law Review, v. 46, 1971: 281-303.

1. customs, tradition and culture: aboriginal law

\_\_\_\_\_. "Law and the Indians on the Arkansas frontier: 'Stand stripped, but strongly nerved.'" Arkansas Law Review and Bar Association Journal, v. 18, 1964: 1.

1. criminal jurisdiction: Indian country
2. administration of Indian affairs
3. customs, traditions and culture

Reynolds, Osborne M. "Indians - reservations - federal jurisdiction ended only by express provision of Congress [Seymour v. Superintendent, Washington State Penitentiary, 82 Sup. Ct. 424]." Arizona Law Review, v. 5, 1963: 131-133.

1. reservations: administered by Acts of Congress
2. Indian country: defined
3. criminal jurisdiction: Indian country

Richards, Clinton G. "Federal jurisdiction over criminal matters involving Indians." North Dakota Law Review, v. 2, 1957: 48.

1. criminal jurisdiction: Indian country

Richards, Jerrold R. "Providing legal services to Montana Indians." Legal Aid Briefcase, v. 27, 1968: 62.

1. attorneys: legal services

"The 'right of tribal self-government' and jurisdiction of Indian affairs." Utah Law Review, 1970: 291.

1. tribal government: self-government, policy of
2. tribal sovereignty and powers: basis for

Schaab, William C. "Indian industrial development and the courts." *Natural Resources Journal*, v. 8, 1968: 303.

1. tribal courts: jurisdiction
2. sovereignty: sovereign immunity; tribal
3. jurisdiction, federal court: federal question, tribes
4. Indian Reorganization Act

Schwechten, John L. "In spite of the law: a social comment on the impact of Kennerly and Crow Tribe." *Montana Law Review*, v. 33, 1972: 317.

1. civil jurisdiction: civil actions arising in Indian country
2. traders

Smith, Michael. "Tribal sovereignty and the 1968 Indian Bill of Rights." *Civil Rights Digest*, v. 3, summer 1970: 9-15 and *American Indian Law Newsletter*, v. 3, no. 21, 1970: 370.

By staff attorney for the U.S. Commission on Civil Rights.

Sonosky, Marvin J. "State Jurisdiction over Indians in Indian country." *North Dakota Law Review*, v. 48, 1972: 551.

1. Indian country: jurisdiction, generally
2. Indian country: defined

"Sources of American Indian Law." *Law Library Journal*, v. 67, 1974: 494-527.

Report of a panel discussion at 67th annual meeting of American Association of Law Libraries. George Grossman, moderator. Rennard Strickland, Hans Walker, Victoria S. Santana, and Larry Levanthal, panelists. Victoria Santana, assistant tribal attorney of the Blackfeet Tribe, Browning, Montana, discussed current problems of tribal courts, and efforts to further develop systems of tribal law. Panel was also presented with declaration (included in this report) of International Indian Treaty Conference, held at Standing Rock Sioux Reservation, South Dakota, 1974.

Strickland, Rennard. "American Indian law and the spirit world." *American Indian Law Review*, v. 1, 1973: 33-53.



\_\_\_\_\_. "An essay: take us by the hand: challenges of becoming an Indian lawyer." American Indian Law Review, v. 2, no. 2, 1974: 47-59.

\_\_\_\_\_. "Corpus of the written Cherokee laws." Law Library Journal, v. 67, 1974: 110-119.

"The purpose of this study is to examine the development of the corpus of the new Cherokee law and trace developments that followed the substitution of 'code law' for 'blood law'." 110

\_\_\_\_\_. "Redeeming centuries of dishonor: legal education and the American Indian." Toledo Law Review, 1970: 847.

Sullivan, John F. "State civil power over reservation Indians." Montana Law Review, v. 33, 1972: 291.

1. civil jurisdiction: civil actions arising in Indian country
2. tribal government: self-government, policy of

Swan, Robert C. "Indian legal services programs: the key to red power?" Arizona Law Review, v. 12, 1970: 594.

1. attorneys: legal services

Tamblyn, Katherine Anne M. "Conflicts - jurisdictional problems, Indians and Indian reservations [Seymour v. Schneckloth, 82 Sup. Ct. 424]." Rocky Mountain Law Review, v. 34, 1962: 546.

1. criminal jurisdiction: Indian country

Taylor, Peter S. "Development of tripartite jurisdiction in Indian country." Solicitors' Review, v. 22, no. 3, July 1973: 1-71 and Kansas Law Review, v. 22, 1974: 341.

By member of Indian Civil Rights Task Force, office of the Solicitor, U.S. Dept. of the Interior. Reviews all relevant cases since the early nineteenth century.

Thompson, J.J. "Law amongst the aborigines of the Mississippi Valley." Illinois Law Quarterly, v. 6, 1924: 204.

"Tribal self-government and the Indian Reorganization Act of 1934."  
Michigan Law Review, v. 70, 1971-72: 955-986.

This is concerned with the Act "as it affected the concept of tribal self-government, and primarily with those sections providing for adoption of tribal constitutions and organization as chartered business corporations." 955. Suggests that a parallel between tribalism and incorporation "makes corporate organization a particularly appropriate means of modern development." 986.

1. Indian Reorganization Act
2. tribal government: self-government, policy of

"U.S. v. Blackfeet Tribal Court, 244 F. Supp. 474." Montana Law Review, v. 27, 1966: 198.

Warren, John S. "An analysis of the Indian Bill of Rights." Montana Law Review, v. 33, 1972: 255-265.

1. Indian civil rights act

Waters, James H. "State lacks jurisdiction over abandoned Indian minor - federal jurisdiction exclusive [in re Colwash (Wash.) 356 P 2d 994]." Utah Law Review, v. 7, 1961: 417.

1. juveniles: child welfare
2. civil jurisdiction: consent to application of state laws:  
Public Law 280

Webb, Barbara Larson and John Webb. "Equitable and declaratory relief under the Indian Civil Rights Act." North Dakota Law Review, v. 48, 1972: 695-728.

An attempt "to elucidate ways in which equitable and declaratory relief under the ... Act can be granted with a minimum of disruption to the tribal system of self-government; it is not concerned with congressional wisdom in passing the Act." authors' conclusion.

Willis, J.W. "Indian eloquence in a judicial forum." Central Law Journal, v. 82, 1916: 64.

Ziontz, A.J. "In defense of tribal sovereignty: an analysis of judicial error in construction of the Indian Civil Rights Act." South Dakota Law Review, v. 20, 1975: 1.

## GOVERNMENTS

## Tribal Governments

Assiniboiné and Sioux Tribes of the Fort Peck Reservation in Montana.  
Laws, statutes, etc. Law and Order Codes. June 19, 1971. 49 p.

Blackfeet Tribe. Constitution. Adopted by the adult members of the  
Blackfeet Tribe. 1974.

\_\_\_\_\_. Laws, statutes, etc. Blackfeet Tribal Law and Order Code.  
1973. 150 p.

3

\_\_\_\_\_. Tribal Court. Tribal court procedure: child custody.

Cherokee Nation. Laws, statutes, etc. Laws of the Cherokee Nation,  
adopted by the Council at various periods, 1808-1835. Printed for  
the benefit of the Nation. Tahlequah, Cherokee Nation, Cherokee  
Advocate Office, 1852. With this is bound: the Constitution and  
laws of the Cherokee Nation, 1839-51. Tahlequah, Cherokee Nation,  
1852. reprint. Tahlequah, Oklahoma, Executive Committee of the  
Cherokee Tribe, 1969.

\_\_\_\_\_. Constitution. Constitution and laws of the Cherokee  
Nation. pub. by authority of the National Council. St. Louis,  
R. & T.A. Ennis, printers, 1875.

The constitutions and laws of the American Indian tribes. Wilmington,  
Deleware, Scholarly Resources, Inc., 1973. 20v.

These are late 19th century constitutions, laws, resolutions, etc.  
of the Five Civilized Tribes.

Creek Nation. Laws, statutes, etc. Laws of the Creek Nation. Antonio  
J. Waring, ed. Athens, Ga., University of Georgia Press, 1960.  
(University of Georgia Libraries, Misc. publications, no. 1).



Fay, George E., comp. and ed. Charters, constitutions, and by-laws of the Indian tribes of North America. Greeley, Colorado State College, Museum of Anthropology, Occasional Publications in Anthropology, nos. 1-15. 1967-1972. 18 vs., 15 published.

These are current documents.

Hargrett, Lester. A bibliography of the constitutions and laws of the American Indians. intro. by John R. Swanton. Cambridge, Harvard University Press, 1947.

This is an especially good, annotated bibliography of pre-1934 constitutions and laws.

Iroquois League of Six Nations. The great law of peace of the people of the longhouse. Drawings by John Fadden. Akwesasne, Mohawk Nation (Roosevelt town, N.Y.), White Roots of Peace, 1970.

Layman, Oliver E. Survey of the constitution and by-laws of the Oglala Sioux Tribe. Vermillion, South Dakota, 1955.

Navajo Nation. Laws, statutes, etc. Navajo tribal code. 1969- . 2d ed. Ed. and pub. by Equity Publishing Corp., Oxford, N.H., 1970- . 3 v.

"Contains the general and permanent provisions of the resolutions of the Navajo Tribal Council and its Advisory Committee."

Navajo Nation. Judicial Branch. Annual report. 1969, 1972, 1974- . Window Rock, Arizona.

The 1972 Report "...is an evaluation of our findings based upon the first indepth study of the Courts of the Navajo Nation since they were created... thirteen years ago. The primary goal of this project was to... expose the strengths and weaknesses of the total system of Navajo justice... so that we might diagnose the problems correctly..." (preface). Includes history of the Courts, and recommendations. 1974. Report also covers 1973. Includes significant activities and developments as well as deficiencies, and makes recommendations. Reports include statistical data on court operations.

\_\_\_\_\_. Judicial manual of the courts of the Navajo tribe.  
Prepared by Frank J. Malloy, Mrs. Marie Neswood, and Murray Lincoln.  
Window Rock, Arizona, 1962.

\_\_\_\_\_. Rules: of civil procedure, of criminal procedure, of the  
Court, of the Court of Appeals, of evidence, of probate procedure.

\_\_\_\_\_. Court of Appeals. Opinions. Window Rock, Ariz., 1975.  
68 p.

Contains 22 opinions of the Court of Appeals, from 1969 to 1975.

Navajo Nation. Tribal Council. Judiciary Committee and Police Committee.  
Joint resolution recommending the passage of the proposed Judicial  
Code with changes. 23 Oct. 1975.

Contains the proposed new code.

Seneca Indians. Constitution. [Provisions for Peacemakers' Courts in  
Constitution of 1848]. In The Consolidated Laws of New York.  
Annotated. Book 25: Indian Law. Brooklyn, N.Y. Edward Thompson  
Co., 1950. [On cover: McKinney's Consolidated Laws of New York...].

In 1848 the Seneca Indians of New York submitted a Constitution to  
the New York state legislature for approval. It was accepted, and  
the provisions for Peacemakers' Courts, which had civil jurisdiction  
over matters between reservation Indians, were made part of New York's  
Indian law. The tribal councils (which in addition maintained  
criminal jurisdiction over all offenses not enumerated in the Major  
Crimes Act) functioned as appellate bodies. The state of New York,  
however, assumed criminal jurisdiction over reservation Indians  
in 1948; and civil jurisdiction in 1950, by acts of the U.S. Congress.  
The 1950 book of Indian Law retains the provisions for Peacemakers'  
Courts, which are described in Article 4 (The Seneca Indians), sections  
46-52. p. 36-43.

Shoshone-Bannock Tribe of Indians. Laws, statutes, etc. Law and  
order code. Feb., 1972. 183 p.

Ute Tribe of Uintah and Ourey Reservation. Laws, statutes, etc. Law and order code. 1975.

Embodies traditional law and order methods while incorporating requirements of the 1968 Indian Civil Rights Act. Asserts jurisdiction over all persons living or doing business on the Reservation, including non-Indians.

Wisconsin Research Institute. Constitutions of the Wisconsin tribes. Journal of the Wisconsin Indians Research Institute, v. 1-5, 1965-69.

#### State Governments

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Reviews history of State, jurisdictional status of Indian reservations, present situation, problems. Contemplates extension of state jurisdiction.

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91st, 1st sess., 1969.

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Supplementary material includes information on custom law of Zia Pueblo; law and order code and constitution of Isleta Pueblo; information on Acoma Pueblo Indian Reservation and Grant Established Trial Court; and history of Pueblo Indian government and leadership.

93d, 1st sess., 1973.

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Navajo representatives discuss Navajo Bill of Rights, emphasizing Indian right of self-government; and witnesses from various tribes request repeal of Public Law 280. Includes testimony by Cranston Hawley, vice-president, National American Indian Court Judges Association and Virgil L. Kirk, Sr., chief justice of the Navajo Nation.

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Includes testimony from Indian organization.

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Indian testimony includes descriptions of local jurisdictional problems, law enforcement and judicial situations; and suggestions for legislative clarification and reform, including repeal of P.L. 280. Dept. of the Interior and Bureau of Indian Affairs officials review Indian criminal justice system problems, efforts to upgrade programs, and the need for additional funding. And a Justice Dept. official reports on its study of legal questions concerning Indians.

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Report focuses on tribal governing structure; tribal court structure; economic development of tribal resources and the tribal governing structure; administration of governing services; relationship of tribal governmental structure to the B.I.A.; and the Indian Civil Rights Act and the tribal government, for seventeen Indian reservations. With recommendations. avail. from the Program, 1000 Wisconsin Ave., N.W., Washington, D.C. 20007. \$5.00

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Deals with problems related to attorneys, the lack of Indian appeals courts. avail. from NILL.

Brookings Institution for Government Research. Law and order in the New Mexican Pueblos, 1931-1932. Report of a survey made at the request of the... Commissioner of Indian Affairs. Committee on survey: Mary L. Mark, chairman, Elizabeth Long and Paul Gordon. unpublished.

Surveys Pueblo law and order system, government, social and economic life, outside control, including B.I.A. programs, services. Finds that "Although personal relationships or factional cleavage occasionally interfere with just decisions, the Pueblo governments are, within their scope, more effective than our own." 11. (3 original copies exist, one is in Library of Congress).



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Also known as the Merriam Report, was an important influence in liberal movement which led to Indian Reorganization Act of 1934. Section on courts of Indian offenses (768-775). "Eventually all Indians in the United States will be assimilated... and therefore it it is highly desirable that the law and the system of administering the law applied to them shall educate and prepare them for a final and complete subjection to the system of Anglo-Saxon jurisprudence"... 775. With recommendations.

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A discussion of Indian jurisdiction, which is "... spelled out and defined by Indian law and tradition, not by United States law"(3); and of the effects of non-Indian law on the actual exercise of this jurisdiction. A workbook for a series of workshops developed and implemented by the Institute, suite 200, 927 15th St. N.W., Washington, D.C. 20005 and Cook Christian Training School, Tempe, Ariz.

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Prepared for new advanced training program. Examines legal research and opinion writing; the Indian Civil Rights Act of 1968; the basis of tribal law and order authority; separation of powers; impact of Public Law 280; and substantive criminal law. Presents moot court problems.

\_\_\_\_\_. An introduction to legal research and case analysis. by William H. Perkins and Kathy Imig. [Washington, D.C.] NAICJA (Studies for American Indian Court Judges). 1974. 90 p.

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Procedural and substantive law sections. Consists of revised material from earlier Association training materials.

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"Covers the history and present status of extradition involving Indian governments. An important section... deals with Indian perceptions of extradition, which are quite different from those of the non-Indian community. Court decisions and a sampling of tribal legislative response to the problem lead inexorably to the conclusion reached in chapter 4 - legislative clarity is a necessity." vii.

\_\_\_\_\_. Examination of the basis of tribal law and order authority. v. 4 of Justice and the American Indian. NAICJA, 1974. reprint. and distrib. by NILL, 1975. 86 p.

Attempts "... to identify the problems in the area of Indian jurisdictional authority... [and] to present a documented background for the specific legislative illustrations which are included in the study..." v.

\_\_\_\_\_. Federal prosecution of crimes committed on Indian reservations. by Mark D. Steisel and Louis G. Stewart, Jr. v. 5 of Justice and the American Indian. NAICJA, 1974. reprint. and distrib. by NILL, 1975. 88 p.

Thoroughly deals with current status, problems in this area. Strongly stresses inadequacy or unavailability of statistics, since agencies responsible for decisions and reform "... ask first to see numbers." v.

\_\_\_\_\_. Handbook for tribal court clerks and administrators. prepared by American Indian Law Center, University of New Mexico. [Washington, D.C.] NAICJA, 1973.

Includes sections on general clerical duties, court duties, and sample forms; and a glossary of commonly used legal words and phrases.

\_\_\_\_\_. [Handbook on family law and child welfare]. To be published shortly.

\_\_\_\_\_. The Indian judiciary and the concept of separation of powers. v. 2 of Justice and the American Indian. NAICJA, 1974. reprint. and distrib. by NILL, 1975. 56 p.

"The document gives some background concerning the theory and development of the concept... but, more importantly, it relates this idea to the everyday practices of Indian courts. The problems which Indian courts face today as a result of the lack of insulation from political and community pressures are discussed in detail. The publication closes with some conclusions about what could happen to Indian governments which do not consider this subject and with some possible alternatives." v.

\_\_\_\_\_. The impact of Public Law 280 upon the administration of justice on Indian reservations. by Ralph W. Johnson. v. 1 of Justice and the American Indian. NAICJA, 1974. reprint. and distrib. by NILL, 1975. 118 p.

Attempts to answer two questions in this area: "1) How can the damage caused by termination legislation be undone? and 2) How can the policy of self-determination... be effectively implemented? The history and present operational structure of state jurisdiction over Indian reservation serves to clarify the need for the remedies which are proposed. A separately-written background paper provides the perceptions of Washington State Indians about state assumption of jurisdiction. Important appendices offer for discussion some legislative guidelines and proposals on retrocession and related subjects." v.

\_\_\_\_\_. The law of evidence. prepared by American Indian Law Center, University of New Mexico. [Washington, D.C.] NAICJA, 1974.

16 written lessons; accompanying cassette tapes; and a two hour video tape on "The hearsay rule and its exceptions."



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v.1: The Indian Civil Rights Act of 1968, by Louis G. Stewart, Jr.; and Trial and appellate court procedures, by Ralph W. Johnson and Jay V. White. v.2: The duties and responsibilities of tribal judges, by John T. McDermott. Lessons.

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Includes sections on historical and current development, and legal issues surrounding the problem; Public Law 280; and non-Public Law 280 states.

National Congress of American Indians. [Testimony to various Congressional committees, position papers]. unpublished.

Avail. from the Congress, 1430 K St., N.W., Washington, D.C.

National Indian Justice Planning Association. Criminal jurisdiction in Indian country: the policeman's dilemma. Santa Fe, New Mexico, NIJPA, 1973.

\_\_\_\_\_. Indian justice planning project, 1971. Santa Fe, New Mexico, NIJPA, 1971.

Directed by James B. Grant, and composed of law enforcement officials of Arizona, Colorado, New Mexico and Utah, and with Indian staff members. The project has planned, for each state and the Navajo Nation, for the improvement of reservation law enforcement. Part I discusses the historic origins of the tribes, traditional Indian justice, tribal sovereignty, and current jurisdictional and law enforcement problems. Part II consists of the five plans. avail. from the Association, 126 Old Post Office Bldg., Cathedral Place, Santa Fe, N.M. 87501.

\_\_\_\_\_. Manual: Indian justice, a guide to planning. by Audrey J. Geis and Cleatus R. Richards. [Santa Fe] NIJPA, 1971.

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NILL collects current litigation in the field of Indian law. The catalogues of its holdings together contain 2300 entries. All entries are indexed using the General index to Indian Law developed by the Native American Rights Fund, which includes over 400 subject headings. All holdings also catalogued by tribe, state, plaintiff-defendant, defendant-plaintiff and author-title. Case files contain only important substantive pleadings and briefs. Collection also includes legal memoranda and opinions, law review articles, special studies and government documents. A new, cumulative and expanded edition will be published shortly. avail. from NILL. \$20.00

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\_\_\_\_\_. National Conference on Jurisdiction and Public Law 280. Denver, Colorado. 24-26 February, 1975. Transcript. NCAI, 1975.

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Southwest Indian Tribal Courts Conference. 2d. University of Arizona, 1962.... Proceedings recorded, ed. and pub. by the Branch of Law and Order, Gallup Area Office, B.I.A., New Mexico, 1962.

Talks and papers on civil and criminal jurisdiction; collection of debts in tribal courts; evidence and witnesses; extradition; duties and conduct of judges; court records; sentencing; probation and parole; juvenile hearing procedures; proper trial procedure and other topics.

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Includes discussions of Public Law 280; Assimilative Crimes Act on Indian Reservations; jurisdiction over non-Indians; litigation involving Indian tribal and state jurisdiction; and recent developments in Indian civil litigation.

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Working Conference on Tribal Government. Albuquerque, New Mexico, March 1974. "Implementation of Indian self-government: tribal constitutions, governing bodies and judicial systems." Draft memo for conference participants.

## PERIODICALS

American Indian Journal. Oct. 1975- . monthly. Institute for the Development of Indian Law, 927 15th St. N.W., suite 200, Washington, D.C. 20005.

This combines and replaces two previous journals: the Education Journal of the Institute; and the Legislative Review, of the Indian Legal Information Development Service and, later, the Institute. Legislative review, a feature of the new journal, indexes and compares pending bills affecting native Americans.

American Indian Law Review. 1973- . semi-annual. University of Oklahoma, College of Law, 630 Parrington Oval, Norman, Oklahoma. 73069. \$5.00 per year.

American Indian Law Newsletter. 1968- . fortnightly. American Indian Law Center, University of New Mexico School of Law, 1915 Roma Ave. N.E., Albuquerque, N.M. 87106.

Reviews federal legislation, covers Congressional Record, Committee Hearings, Reports and bills, and other articles.

California Indian Legal Services Newsletter. 1968- . irregular, 3-7 issues per year. California Indian Legal Services, 477 15th St., suite 200, Oakland, Calif. 94612.

D.N.A. in Action. 1968- . irregular, 8-12 issues per year. D.N.A. - Peoples' Legal Services, P.O. Box 306, Window Rock, Arizona. 86515.

Indian Law Developments. 1975- . monthly. Indian Law Back-up Center, located with the Native American Rights Fund, 1506 Broadway, Boulder, Colorado. 80302.

Indian Law Reporter. 1973- . monthly. American Indian Lawyer Training Program, Inc., 1000 Wisconsin Ave., N.W., Washington, D.C. 20007. \$50.00 per year.

A comprehensive monthly report on current developments in the field of Indian law. Three sections: recent court decisions, administrative and legislative materials, and topical summary and index (wherein each item is categorized according to the NILL Index of Indian law;

and assigned a NILL acquisition number). A special 1974 issue listed the cumulative annotated table of cases presented in previous issues. Beginning with the Sept. 1975 issue (v. 2, no. 9), cumulative topical indexes are presented periodically within regular issues.

and

Indian Law Reporter - Tribal Court Supplement. May 1975- . monthly.  
American Indian Lawyer Training Program, Inc.

Published "... especially for tribal judges..." the Supplement consists of "... summaries of court decisions dealing directly with the authority and jurisdiction of tribal courts, reports on written opinions coming directly from tribal courts and other relevant legal developments... The outline and... commentary are also intended to define exactly how the court opinion relates to the authority or jurisdiction of tribal courts." Good source of information on operations of tribal courts.

and

[Specialized Indian Law Reporter on Jurisdiction]. to be published  
March? 1976- . irregular. American Indian Lawyer Training  
Program, Inc.

Will cover court cases, legislation, and various executive opinions on criminal and civil jurisdiction of tribal courts.

National American Indian Court Judges Association Newsletter. 1971?- .  
NAICJA, 1000 Connecticut Ave., N.W., suite 401, Washington, D.C.  
20036.

Brief but good source of information on innovative tribal court procedures, news.

National Indian Law Library of the Native American Rights Fund Announcements.  
1973?- . 6 issues per year. 1506 Broadway, Boulder, Colorado. 80302.

Includes substantive articles, news notes, and current acquisitions list of the library.

The Sentinel. 1955?- . monthly. National Congress of American Indians.  
1430 K St., Washington, D.C.







